

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

JOHN DOE

Plaintiff,

v.

BAYLOR UNIVERSITY,

Defendant.

§ CIVIL ACTION NO.:
§ 6:22-CV-01155-ADA-DTG
§
§
§
§
§
§
§
§

MOTION TO WITHDRAW AS COUNSEL

Pursuant to Local Rule AT-3 of the United States District Court for the Western District of Texas, the law firm of NESENOFF & MILTENBERG, LLP. hereby moves this Court for an Order allowing the withdrawal of attorneys Andrew Miltenberg, Esq., Stuart Bernstein, Esq. and Kristen Mohr, Esq. as counsel of record for Plaintiff John Doe, and in support thereof, states as follows:

1. Andrew Miltenberg, Esq., Stuart Bernstein, Esq., and Kristen Mohr, Esq. of NESENOFF & MILTENBERG, LLP are currently counsel of record for Plaintiff John Doe (“Plaintiff”) but are no longer actively representing Plaintiff in this matter as a result of a breakdown in the attorney-client relationship. Movants and Plaintiff are unable to work together cooperatively in the progress of this lawsuit, and Plaintiff is unable to maintain the financial responsibility required by the engagement agreement. Written notice of the intent to file this motion was given to Plaintiff by email on January 16, 2024.

2. Movants were admitted to practice pro hac vice in this Court, in conjunction with local counsel Joshua C. Borsellino of Borsellino, P.C. The undersigned has conferred with local counsel, who represented that he would not continue as lead counsel in this matter. Upon

information and belief, Mr. Borsellino will be filing an application seeking his withdrawal as counsel.

3. On January 30, 2024, Defendant's counsel informed the undersigned that Defendant would oppose this motion, given that this motion does not contain Plaintiff's contact information.

4. The undersigned is prepared to provide Plaintiff's name, address, and telephone number to the Court in accordance with Local Rule AT-3. As Plaintiff has been granted pseudonym protection in this matter, this information cannot be filed publicly. As Doe was a student of the Defendant University, Doe's identify is known to the Defendant. The undersigned is further willing to share this information with counsel for Defendant upon Court order.

5. Based upon recent communications with the Plaintiff, Plaintiff has not yet retained new counsel. Plaintiff has stated that he would oppose this motion.

6. The undersigned would request a 30 day stay of discovery and a 30 day extension of all non-expired deadlines in the current scheduling order, to allow Plaintiff to transfer this matter to new counsel. Counsel for Defendant has indicated that Defendant does not oppose this specific request for a stay and extension of time if this motion is granted.

WHEREFORE, the law firm of NESENOFF & MILTENBERG, LLP respectfully requests the Court grant this Motion to Withdraw pursuant to Local Rule AT-3.

Respectfully Submitted,



John Doe

WHEREFORE, the law firm of NESENOFF & MILTENBERG, LLP respectfully requests the Court grant this Motion to Withdraw pursuant to Local Rule AT-3.

Dated: January 30, 2024

Respectfully Submitted,
NESENOFF & MILTENBERG, LLP

By: /s/Andrew T. Miltenberg
Andrew T. Miltenberg, Esq. (*pro hac vice*)
Stuart Bernstein, Esq. (*pro hac vice*)
Kristen Mohr, Esq. (*pro hac vice*)
363 Seventh Avenue, 5th Floor
New York, New York 10001
Tel: (212) 736-4500
amiltenberg@nmlplaw.com
sbernstein@nmlplaw.com
kmohr@nmlplaw.com

CERTIFICATE OF SERVICE

I hereby certify that on this the 30th day of January, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following counsel of record:

Julie A. Springer, Esq.
Colleen Elizabeth Murphey, Esq.
Sara E. Janes, Esq.
WEISBART SPRINGER HAYES, LLP
212 Lavaca St., Suite 200
Austin, TX 78701

I hereby further certify that Plaintiff has been provided with a copy of the foregoing via certified mail and e-mail to Plaintiff's known addresses.

s/Andrew T. Miltenberg
Andrew T. Miltenberg, Esq.